ATLANTA POSTAL CREDIT UNION

Donald A. DeCinque – President/CEO

May 23, 2014

Gerard Poliquin, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comments on Proposed Rule: PCA – Risk-Based Capital

Dear Mr. Poliquin:

I appreciate the opportunity to provide comments and observations to the National Credit Union Administration (NCUA) Board about the proposed rule on prompt corrective action (PCA) and risk-based capital. Atlanta Postal Credit Union is an over $2 billion in assets, 107,000+ member federally insured Georgia-chartered credit union located in Atlanta, Georgia. Our credit union exists to serve its members and we have a long, proud history of doing the job for which we were chartered.

Atlanta Postal Credit Union ended 2013 under the current regulation with a "well capitalized" designation reporting a net worth ratio of 12.74%, and a risk-based net worth requirement of 6.19%. Under the proposed regulation using the risk-based capital rule calculator provided on the NCUA website, Atlanta Postal Credit Union's net worth (leverage) ratio remained 12.74% and the risk-based capital ratio was 19.79% -- well above the proposed 10.5% risk-based capital ratio requirement for a "well capitalized" designation.

Key Points Made in this Comment Letter:

- Raising capital expectations will slow credit union growth.
- Growth would be unavoidably inhibited by any unnecessarily high capital expectation the NCUA Board might establish.
- The biggest flaw in the proposed rule is the arbitrary risk-weightings that far exceed those imposed by banking regulators on banks.
- The proposed risk-weights for non-performing assets, deposits at the Federal Reserve, member business loans, and first mortgages should be rolled back to match those imposed on community banks.
- The onerous proposed risk-weights for investments in and total loans to CUSOs are arbitrary and unsupportable.
- The provision that authorizes the agency to establish increased minimum capital requirements for individual credit unions should be deleted.
- The exclusion of the 1% NCUSIF deposit from the risk-based capital ratio calculation could at least in theory justify expensing it.
- The effective date of any final PCA: Risk-Based Capital Rule should be extended.
- The piling on of complicated and complex new rules is no substitute for responsible regulatory supervision and thorough safety and soundness examinations.

As many community bankers have learned from their experience with regulator-imposed higher capital expectations -- the risk is that you overcapitalize yourself into complete stagnation. By definition raising capital expectations for credit unions will slow growth. That will in turn have a slowing impact on the local economy. Implementing the proposed rule in its current form on credit unions with assets of $50 million and greater would have the same effect as throwing sand into the gears of the economic recovery.

Unlike banks, credit unions do not have capital stock and cannot go to outside investors to seek equity capital to fuel growth or shore up capital ratios in times of stress. And for credit unions, retained earnings have become more and more difficult to come by. Without the access to outside capital, whether secondary or true equity, growth would be unavoidably inhibited by any unnecessarily high capital expectation the NCUA Board might establish. The only question that remains is how inhibiting will the NCUA Board's action be when the final rule is released. The NCUA Board is advised to be very cautious in deciding upon the level of increase in capital expectations.

The biggest flaw in the proposed rule is the extent to which the NCUA's arbitrary risk-weightings far exceed those imposed by banking regulators on banks. The safety and soundness track record of credit unions does not justify the punitive treatment reflected by the more restrictive risk-weightings in the proposed rule. The risk exposures of all but the most plain-vanilla credit unions or the most out-of-control opportunists hardly differ from most community banks. There is significant harm done by these unrealistically-high proposed risk-weightings to both the marketplace perceptions of credit unions, as well as to the competitive position of credit unions. The NCUA Board would in effect be imposing a special "capital tax or capital fee" on credit union members that bank customers would not have to pay to obtain similar products or services.
The NCUA proposed rule's risk-weights should at a minimum be rolled back to match those imposed on community banks. This rollback especially applies to:

- ☐ NCUA's 60-day non-performing asset definition vs. banks' 90-day definition
- ☐ NCUA's 20% risk-weight for funds on deposit at the Federal Reserve vs. 0% for banks
- ☐ NCUA's sliding scale of risk-weighting for member business loans of 100% to 200% (depending on portfolio concentrations ranging from <15%; >15% < 25%; 25% > of total assets) vs. banks' flat 100% across the board; and
- ☐ NCUA's sliding scale of risk-weighting of first mortgage loans of 50% to 100% (depending on portfolio concentrations ranging from <25%; >25%<35%; 35%> of total assets) vs. banks' 50% across the board

Also on the list of arbitrary and unsupportable risk-weightings are:

- ☐ NCUA's onerous 250% risk-weighting of total investments in credit union service organizations (CUSOs); and
- ☐ NCUA's 100% risk-weighting of the total loan principal amount outstanding loaned to CUSOs

In this case, a credit union's limited investments in a CUSO are unlike a bank's much broader investment powers. Rather than treat all CUSOs like they were a great risk to each credit union, if the NCUA believes that it has identified a specific problem situation that poses significant risk, the agency should not hesitate to use its existing supervisory authorities to address that specific risky behavior. A more surgical solution is called for under such circumstances. When it comes to CUSOs, one size definitely does not fit all.

I also find the proposed rule's provision that authorizes the NCUA to establish increased minimum capital requirements for individual credit unions to be unsettling. Based upon the proposed rule's laundry list of criteria any one of which could trigger the agency's intervention, just about any credit union could be subjectively construed to be so designated. Although one hopes that the agency would use authority judiciously, there appeared to be no effective checks and balances on its actual use in the real world. I expect the NCUA to be an arms-length regulator as is appropriate in its industry watchdog role, however, post-financial crisis it has become increasingly adversarial toward innovation and appears to be counter-productively risk-adverse. Providing the agency's field examiners with the ability to halt innovation based upon the mere hint of potential risk could lead to a dramatic increase in otherwise-avoidable conflicts with credit unions.

At a time when financial services regulators have demonstrated a propensity for aggressive supervision one cannot help but be concerned. I would recommend deleting this "increased minimum capital" provision in its entirety. If the NCUA Board chooses not to do that, at least a mechanism should be inserted to make it clear that the provision would not be used for politically-motivated purposes or to compensate after-the-fact for NCUA's poor examination and supervision practices that led the targeted credit union to become a problem in the first place.

Perhaps it was inevitable, but another significant aspect of the proposed rule is the exclusion of the credit union's 1% deposit in the National Credit Union Share Insurance Fund (NCUSIF) from the risk-based capital calculations. After experiencing the corporate credit union meltdown, it became evident that the NCUA had the superior claim on that 1% deposit and that the credit union could not really claim to "own" it. As the NCUA explained, "The proposed rule would address concerns about the NCUSIF deposit reflected on the NCUSIF's balance sheet both as equity to pay losses and as an asset of the insured credit unions. In the proposed rule, the NCUSIF deposit is subtracted from both the numerator and the denominator of the risk-based capital ratio. This treatment for the risk-based regulatory capital standard would not alter the NCUSIF deposit accounting treatment for credit unions." I am not as certain that some accountants would agree with that last sentence. The adoption of the proposed rule "as is" could at least in theory justify a process of expensing the 1% deposit. Perhaps the 1% NCUSIF deposit should have been expensed all along, but writing it down now would come at a time when generating earnings is already a big challenge.

And although Atlanta Postal Credit Union is currently "well capitalized" and would remain "well capitalized" under the proposed rule's increased risk-based capital ratio expectations, there will be some credit unions over $50 million in assets that will find the rule overwhelming. As written the proposal would go into effect 18 months after a final rule was adopted. I suggest that the NCUA Board consider extending that final date to provide as much transition time as possible for credit unions to adapt to this major business model change during a difficult economic environment. I would also remind the NCUA Board that the piling on of complicated and complex new rules is no substitute for responsible regulatory supervision and thorough agency safety and soundness examinations of credit unions.

With this proposed PCA and risk-based capital rule and its subsequent actions, the NCUA Board has the opportunity to provide a leadership example to the other regulators by charting a more prudent course. I urge the NCUA Board to use the flexibility that it has under the Federal Credit Union Act to allow for a pro-growth path for the nation's federally insured credit unions.

I applaud the NCUA Board Chairman's scheduling of regional listening sessions where the proposed rule and other important topics can be discussed. Thank you for providing this opportunity for comment.

Sincerely,

Donald A. DeCinque

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President/CEO

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